

1. Agenda Approval

Does the Board have any changes or additions to the agenda?

2. Rolling Calendar

BOARD ACTION

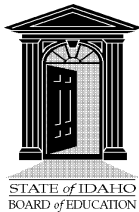
To approve June 16-17, 2005 as the dates and University of Idaho as the location for the June 2005 regularly scheduled Board meeting.

3. Minutes Approval

BOARD ACTION

To approve the minutes from April 22-23, 2004, as submitted.

To approve the minutes from May 18-19, 2004, as submitted.



STATE BOARD OF EDUCATION  
TRUSTEES OF BOISE STATE UNIVERSITY  
TRUSTEES OF IDAHO STATE UNIVERSITY  
TRUSTEES OF LEWIS-CLARK STATE COLLEGE  
BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO  
STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION  
TRUSTEES FOR THE IDAHO SCHOOL FOR THE DEAF AND THE BLIND

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**DRAFT MINUTES  
STATE BOARD OF EDUCATION MEETING  
April 22-23, 2004  
North Idaho College  
Coeur d'Alene, Idaho**

A regular meeting of the Idaho State Board of Education was held on April 22-23 at North Idaho College in Coeur d'Alene, Idaho. The meeting was called to order at 8:00 a.m. President Blake Hall presided. The following members were present:

Blake Hall, President  
Paul Agidius  
Milford Terrell

Rod Lewis, Secretary  
Marilyn Howard, State Superintendent  
Laird Stone

**BOARDWORK**

1. Agenda Approval

**M/S (Lewis/Agidius): To approve the agenda as amended adding an addition item in the BAHR section under finance (BSU Health Center).** *Motion carried unanimously.*

2. Rolling Calendar

**M/S (Stone/Lewis): To approve April 21-22, 2005 as the dates and Eastern Idaho Technical College as the location for the April 2005 regularly scheduled Board meeting.** *Motion carried unanimously.*

3. Minutes Review / Approval

**M/S (Terrell/Agidius): To approve the minutes of the March 11-12, 2004 meeting as submitted.** *Motion carried unanimously.*

**EXECUTIVE SESSION**

**M/S (Stone/Terrell): To enter into executive session pursuant to Idaho Code Section 67-2345 (1), (a), (b), (c), (d), and (f).** *A roll call vote was taken. Motion carried unanimously.*

In executive session, the Board considered hiring a public officer, employee, staff member or individual agent; considered the evaluation, dismissal or disciplining of, or complaints or charges brought against a public officer, employee, staff member or individual agent, or public school student; considered records that are exempt from public inspection; and considered and advised its legal representatives in pending litigation or where there is a general public awareness of probable litigation.

**PLANNING, POLICY & GOVERNMENTAL AFFAIRS – Milford Terrell****1. Final Decision on the Angel Ramos Appeal**

**(A complete transcript this agenda item will be provided by the Board upon request.)**

President Hall directed each side of the issue to take no more than 20 minutes to present their position. Keith Roark, Attorney for Angel Ramos, appeared by phone. Brian Benjamin, Attorney for the State of Idaho, appeared in person.

Mr. Benjamin summarized the history of the case and discussed Dr. Ramos' response to the Corrective Plan of Action that had been developed to address complaints and findings related to his performance.

Mr. Roark noted that while Dr. Ramos had a right to (and did) disagree with several aspects of the Corrective Plan of Action his response was not evidence of a lack of support of the plan in general. He urged the Board to reinstate Dr. Ramos so that the school could move forward.

President Hall said a copy of the briefing paper and exhibits had just been received by the SBOE members from Mr. Roark immediately prior to this Board meeting.

**M/S (Stone/Terrell): Having read the record and recognizing the need to resolve this issue and move forward; and having been an advocate, as several others on the Board, to resolve this issue as soon as possible; and recognizing that no matter what this Board decides that there is an emotional component; and now put in a position because of the sudden illness of Dr. Ramos' counsel, which delayed the receipt of their legal brief in support of their position until April 22, and the need for the Board to fully consider that brief; move that this Board,**

**pursuant to the Administrative Procedure Rules, take this matter under advisement and delay a decision on it at this time.** *Motion carried 5-1; Hall dissenting.*

**M/S (Agidius/Stone): To enter into executive session pursuant to Idaho Code Section 67-2345 (1), (a), (b), (c), (d), and (f).** *A roll call vote was taken. Motion carried unanimously.*

In executive session, the Board considered hiring a public officer, employee, staff member or individual agent; considered the evaluation, dismissal or disciplining of, or complaints or charges brought against a public officer, employee, staff member or individual agent, or public school student; considered records that are exempt from public inspection; and considered and advised its legal representatives in pending litigation or where there is a general public awareness of probable litigation.

#### **INSTRUCTION, RESEARCH & STUDENT AFFIARS – Rod Lewis**

**By unanimous consent the Board agreed to move the charter school appeals to this point of time in the agenda.**

##### 1. Compass Charter School Appeal

**(A complete transcript of this agenda item will be provided by the SBOE upon request.)**

Brendan Taylor, representing the Compass Charter School, spoke to the Board by phone. He introduced Susan Luke and Eric Jensen, supporters of the charter school who appeared in person to speak to the Board. Mr. Eric Exline, Public Information Officer for the Meridian District, appeared by phone.

Ms. Luke outlined the history of the Compass Charter School and the denial of the petition by the Meridian School Board. Mr. Taylor summarized the elements of the appeal. Mr. Jensen, President of the Charter, discussed the reasons for bringing an appeal to the SBOE noting that the school district deliberately delayed action on the charter petition until the SBOE had heard the appeal.

Mr. Exline spoke about the issue of compliance related to attendance noting that the local board's denial was not random, tyrannical nor arbitrary.

When asked why the Charter used a house-by-house admission boundary in its petition, Mr. Jensen indicated that staff of the State Board of Education had advised them to do so in order to include the organizing charter families and that it was inferred to them by Board staff that the boundary did not have to be a contiguous line.

Mr. Exline said it was his belief that the district would reconsider the petition should the SBOE remand it back to the local board for reconsideration. He said the Meridian board had not definitely granted or denied the charter petition as amended. Rather, they deferred that decision until after the appeal was heard by the SBOE.

**M/S (Howard/ Stone): In light of the Board's understanding and having not had time to consider the implications of this charter and its amendments, a motion is made to remand the petition to the Meridian District with instruction that the district reconsider it in light of the new statute. Motion carried 5-1 (Terrell dissenting).**

**Substitute motion (Lewis/Terrell): To refer the application to the Public Charter Commission for their consideration as to whether or not a charter is granted. Motion failed 2-4 (Hall, Stone, Howard and Agidius dissenting).**

## 2. Idaho Leadership Academy Appeal

**(A complete transcript of this agenda item will be provided by the SBOE upon request.)**

President Hall disclosed that a partner in his law firm is married to a member of the board of trustees of the Idaho Falls school board. He said that there is not a conflict of interest on his part because he has not discussed the Leadership Academy with his law partner or his partner's wife nor is he familiar with the dynamics of the petition.

Scott Marotz representing the Idaho Falls School District and Brendan Taylor representing the Idaho Leadership Academy both appeared by phone before the Board. Mr. Taylor introduced Mr. Adams and Mr. Scherer who appeared in person to represent the Idaho Leadership Academy.

Mr. Scherer, head of the charter school petition committee explained why they wanted to locate the academy in Idaho Falls. Mr. Taylor noted several sections of Idaho Code and Rules of the SBOE in support of that position and said that comments made by the hearing officer indicate that improper consideration was enacted making their decision to deny the petition improper and arbitrary. Mr. Adams summarized the history of the petition and indicated that a negative relationship that had developed between the petitioners and the school district which was the reason for bringing the petition to the SBOE for its consideration.

Mr. Marotz said that the petition was denied because it was lacking significantly in several areas and that it didn't meet the standards of the prior statute. He suggested the proper remedy is to remand it to the Charter Commission directly.

President Hall asked Mr. Marotz if the Idaho Falls trustees desired to have the petition be referred directly to the new Charter Commission by the SBOE and Mr. Marotz assured him that was the case. He said that if the SBOE would direct the Idaho Falls school board to review the petition, as it currently exists without correcting the deficiencies, the local board would be compelled to refer it to the Commission itself.

**M/S (Agidius/Lewis): To refer the petition to the Public Charter Commission to be considered under the new public law.** *Motion passed 4-2 (Stone and Howard dissenting).*

**Substitute Motion (Howard/Stone): To send the petition back to the local district for their reconsideration under the new law.** *Motion failed 2-4 (Hall, Agidius, Lewis and Terrell dissenting).*

Dr. Howard said the reason for her substitute motion was to give the local board an opportunity to make their decision, but if the local board is bypassed she would support denying the petition altogether because of the lack of sufficiency's. President Hall expressed similar concerns with the petition, but today's meeting didn't allow time for a thorough review of the petition so he recommended referring it to the Commission.

### 3. Rolling Hills Charter School Appeal

**(A complete transcript of the discussion of this appeal can be provided by the SBOE upon request.)**

Doug Varie, the attorney for the Rolling Hills Charter School appeared in person before the Board. Representing the Boise District by phone were Stan Olson and John King.

Mr. Varie outlined the reasons for the Rolling Hills Charter School appeal and requested that the transcript of the hearing officer's findings be made part of the official records of the SBOE appeal hearing. He noted that the Boise district's denial was based on the issues of preference given to the founders' children and special education. He said that at public hearing the petitioners were prepared to address those issues, but were not given the opportunity to do so. He asked that if the SBOE does not find sufficient cause to approve the charter that they refer it to the Commission due to the fact that the working relationship with the Boise district has been damaged.

Mr. King indicated that the original petition was incomplete in many areas when it was first submitted. He reviewed the findings of the hearing officer and said that the petitioners were urged to refile their petition. Board member Stone asked what the position of the Boise district on referring this petition to the Commission. Mr. King said their preference would be that the petition be referred back to the school district, that it

be amended and reconsidered again for next year.

When Dr. Howard asked if the Boise district had had the opportunity to review the petition as amended it was noted that a letter was sent to the Boise district by the petitioners to inform them that the Rolling Hills Charter would handle the special education responsibilities on November 1<sup>st</sup>.

Dr. Howard asked about the current attendance boundaries and Mr. Varie explained that the boundaries take into two school districts, Meridian and Boise. The petitioners said they were willing to work with the local board to arrive at attendance boundaries that were agreeable to them.

President Hall asked the SBOE deputy attorney, Kent Nelson, for clarification on several points. Mr. Nelson said that if a charter is approved it stays in place until it is revoked by the chartering agency. In respect to attendance boundaries, under the new statute, a charter school can include more than one district. The statute does appear to bar a charter school from having facilities in more than one district.

**M/S (Howard/ Agidius): Move to remand this petition back to the district to review as amended and in consideration of the current law.** *(The substitute motion carried in place of this motion.)*

**Substitute Motion (Terrell/ Lewis): To refer this petition to the Commission for their review and consideration.** *Motion carried 4-2 (Howard and Agidius dissenting).*

Mr. Terrell said the reason for his motion was because the parents who have worked on the charter school petition have been diligent and that there is evidence that the district would not offer them a neutral hearing.

## **PLANNING, POLICY & GOVERNMENTAL AFFAIRS (continued) – Milford Terrell**

By unanimous consent the Board agrees to modify the PGAC agenda and switch items 6 and 7.

### **2. Presidents' Council Report**

Dr. Dene Thomas reported to the Board on behalf of the Presidents Council. She noted that they had met with the Department of Administration to discuss improving communication. Also, good progress has been made regarding Capitol Projects. A form is in place and will be brought to their June meeting in order to give the vice presidents the opportunity to review it. The Presidents also discussed how to achieve a more unified approach to higher education.

**3. North Idaho College Progress Report**

Dr. Jerry Gee reported to the Board on behalf of Dr. Michael Burke. He noted the NIC recently went through the process of reassessing its mission and vision. Considering the mission, NIC went through a strategic planning process. Dr. Gee summarized the strategic plan initiatives that were developed. He discussed the instructional issues of the college including accreditation, enrollment and curriculum. He distributed handouts to the Board members.

**4. Reappointment of Larry Weeks to the Idaho State Library Board of Trustees**

Karen Gustafson introduced this item to the Board.

**M/S (Howard/Hall): A motion to reappoint Mr. Larry Weeks to the Idaho State Library Board for a term beginning July 1, 2004 and ending June 30, 2009. Motion carried 5-0 (Stone absent).**

**5. Appointment of New Members to Eastern Idaho Technical College Advisory Council**

Karen Gustafson introduced this item to the Board.

**M/S (Hall/Howard): To approve the reappointment of M. Reed Hansen, Franklin Just, Joseph Groberg, Dr. Fred Gunnerson and Russell Spain to the EITC Advisory Council through December 31, 2006. Motion carried 5-0 (Stone absent).**

**7. Update on the Proposed Amendment to Governing Policies and Procedures to Allow for an Alcohol Policy**

Board member Lewis said, following direction of the Board to review governing policies and procedures to allow for an alcohol policy, action has been taken to amend it so that it has appropriate specificity. A general view was adopted earlier by the Board that the institution CEO had a considerable degree of authority to grant permits for alcohol use on their campus. However, it was determined that there needed to be guidelines and procedures established to assure that there was consistency among the campuses.

Kent Nelson, legal counsel to the Board, discussed the components of the policy itself (Section I, Subsection J, Item 2) for the benefit of the Board members. He noted that any time a permit is granted it is incumbent on the institution to provide a copy of the permit to the Board office in a timely manner. He said the permit must be event-specific and that the event has to be specifically defined and consistent with the proper image and mission of the institution. Board member Lewis said that the policy has the kind of parameters, which preclude the inappropriate consumption of alcohol.



It was affirmed that institutions would still need to seek a waiver from the Board in order to serve alcohol outside of the restrictions of this policy.

Mr. Nelson provided a handout to the Board that better define the term "living quarters" in section 2.c.

Board member Stone asked how the policy addressed the issue of there being a minor who has a roommate of legal age and the presence or consumption of alcohol. Mr. Nelson said that there is nothing that prohibits the CEO's from establishing a more stringent policy along this line.

**Motion by Lewis: To approve the policy as presented as a first reading as it appears in the amended version. *(No second)***

It was noted that there will probably be further edits to the policy and opportunity to review them during the second reading of the policy.

**M/S (Lewis/Agidius): To amend the motion to approve the edited version of the policy that was distributed to the Board members. *(There was no vote on this motion because the substitute motion carried.)***

**M/S (Lewis/Agidius): To approve the proposed amendment to Governing Policies and Procedures to Allow for an Alcohol Policy as submitted in the handout given to all the Board members by Mr. Nelson for first reading. *Motion carried 6-0.***

As a point of discussion, Dr. Howard asked that Mr. Nelson underline changes.

At this time, Board member Terrell asked if Boise State University wanted to move forward with its agenda items having to do with requests for waivers to the Alcohol Rule. Dr. Kustra said that he was agreeable to that.

President Hall recommended that the Board table item 6 and 8 until the final policy is approved and determine at that time if the following waiver requests are necessary.

Board member Lewis said that the action taken by the Board today should be taken as a demonstration of its intent not to allow alcoholic beverages at the institution student athletic events. Dr. Kustra asked if it would still be permissible to seek a waiver. It was so noted.

#### 6. Request for Waiver to the Alcohol Rule – North of Bronco Stadium

This item was table until the next meeting.

**8. Request for Waiver to the Alcohol Rule – Boise State Athletic Hall of Fame**

This item was tabled until the next meeting.

**INSTRUCTION, RESEARCH & STUDENT AFFAIRS (continued) -- Rod Lewis****4. Appointment of Committee and Approval of Scope of Work for Review of Direct Writing Assessment in the 11th Grade**

Randy Thompson said that the Board staff worked with Ms. Fisher to collect names for the Committee along with recommendations for the scope of work of that committee.

President Hall noted that this item should be informational at this point with the President making the appointments to the Committee from the list of names provided. It was also determined that the scope of work should be decided by the new Board president at the time the committee is appointed.

**5. WICHE New Direction Grant**

**By unanimous consent it was agreed to defer this item until the June Board meeting.**

**6. FY05 Idaho Technology incentive Grant Program**

Randy Thompson presented this item to the Board.

**M/S (Terrell/Hall): To approve the funding of the projects as exhibited on the FY2005 Idaho Technology Incentive Grant Program Proposals document. *Motion carried 5-0 (Agidius absent).***

**7. Idaho State University- New Graduate Degree Program: Masters of Dental Hygiene**

Jonathan Lawson of ISU presented this item to the Board along with other staff from ISU noting that ultimately this program could be delivered statewide via distance education facilities.

**M/S (Hall/Terrell): To approve Idaho State University's Notice of Intent for a Master of Science program in Dental Hygiene. *Motion carried unanimously.***

8. Boise State University-New Administrative/Research Unit: Center for the Study of Aging

Daryl Jones of BSU presented this item to the Board.

**M/S (Hall/Stone): To approve Boise State University's Center for the Study of Aging.** *Motion carried unanimously.*

9. Update from the LEP Committee

President Hall noted that a number of the members of the current Board serve on the LEP Committee and that committee has met on 3 occasions. It is anticipated that a 4<sup>th</sup> meeting will take place in the near future. The committee is in the process of trying to establish a baseline and anticipate returning with findings and recommendations in the near future.

10. Temporary and Proposed rule Amendment to the Rules Governing Accountability to allow for Increased Flexibility in AYP Determination as Allowed by the US Department of Education Guidelines – Docket No. 08-0203-0401

Randy Thompson introduced this item to the Board noting that it brings forward three changes to the rules that are consistent and responsive to flexibility. He directed the Board members to page 41 of the IRSA agenda and briefly summarized the changes.

Dr. Howard asked if there had been discussion about the “needs improvement” status. Mr. Thompson said that there had been discussion noting it specified it had to be in the same subject. It does not affect this policy proposal.

**M/S (Hall/Terrell): To approve the Temporary and Proposed Rule Amendment to the Rules Governing Accountability – Docket 08-0203-0401.** *Motion carried unanimously.*

11. Update on Rules Governing Charter Schools

Board member Stone discussed a short outline that was distributed the Board. He noted that the Board has been working with the staff of the State Department of Education and the Attorney General to develop proposed rules for the first reading. He asked that Board members review the handout and make comments to the Board staff.

**By unanimous consent the Board agreed to move to the Business Affairs and Human Resources agenda at this time.**

**BUSINESS AFFAIRS & HUMAN RESOURCES****Section II – Human Resources**1. Boise State University – Head Coach or Athletic Director Employment Contract

Jeff Shinn introduced this item. During discussion it was noted by President Hall that it would be easier to discuss the new contract if there was a comparison document to refer to.

**By unanimous consent it was agreed to defer this item to Friday's agenda in order to all BSU staff to prepare a comparison document.**

2. Idaho State University – New Positions

Jeff Shinn introduced this item.

**M/S (Terrell/Agidius): To approve the request by Idaho State University for eight (8) positions (7.0 FTE). Motion carried unanimously.**

3. University of Idaho – New Positions/Deleted Positions

**M/S (Terrell/Agidius): To approve the request by University of Idaho to add one (1) new non-faculty exempt position (.75 FTE) and to delete five (5) positions (4.70 FTE). Motion carried unanimously.**

4. Lewis-Clark State College – New Positions

**M/S (Terrell/Stone): To approve the request by Lewis-Clark State College for three (3) positions (3.0 FTE). Motion carried unanimously.**

5. Boise State University – Request for new positions, changes in positions and deletion of positions.

**M/S (Terrell/Lewis): To approve the request by Boise State University to add sixteen (16) new positions (15.75 FTE); to change title, term, salary and FTE for seven (7) positions (7.0 FTE); and to delete ten (10) positions (9.5 FTE) as detailed in the Human Resources agenda. Motion carried unanimously.**

**Section I – Business Affairs**

**By unanimous consent it was agreed to defer Tabs 2, 9, 13 of the Business Affairs agenda to Friday's meeting in order to allow for further preparation time on these.**

**By unanimous consent it was agreed to move Tab 7 of the Business Affairs agenda to the beginning of the agenda.**

7. Eastern Idaho Technical College – Idaho State University Health Science Building in Idaho Falls

Jeff Shinn introduced this information item to the Board.

President Hall, noting that an MOU between the two institutions has been signed and that the Legislature granted additional funding for the project above what the Board approved, asked if bonding for the full amount was obtained and then the EDA grant was awarded, what would be the intent regarding the bonds. EITC said that the intent would be to pay the bonds down according to the amount of federal money coming in. President Hall said if the grant was over and beyond, was there any consideration underway to expand the facility and accommodate more than what was originally planned. Dr. Bowen said if additional funds could be obtained, the institutions would come to the Board to request use of those funds to expand the project.

1. Idaho State University – Land Purchase College of Technology – Parking Lot/Pocatello

Jeff Shinn introduced this item to the Board. Mr. Prolo of ISU discussed the land purchase noting that this property is just outside the campus. It is a vacant property and it would be converted to and maintained as a parking lot by ISU. It was noted that there are no restrictions on building on the property. It is currently zoned as residential.

**M/S (Agidius/Stone): To approve the request by Idaho State University to proceed with the purchase of vacant real property located at the SW corner of 2nd and Sutter Streets (Lots 1 & 2 and a small part of Lot 3 as defined in Block 360 Pocatello Townsite). Motion carried 5-0 (Hall absent).**

4. University of Idaho – Land Transfer & Easement to ITD

Jeff Shinn introduced this item to the Board. UI staff discussed the land transfer proposal. It is a farm property south of Moscow on Highway 95.

**M/S (Howard/Agidius): To allow the University of Idaho to convey 0.09 acres of unused property on the Kambitsch Experimental Farm and grant a temporary easement to the Idaho Transportation Department to authorize the completion of a federal Highway 95 widening project between Lewiston and Moscow. *Motion passed unanimously.***

5. University of Idaho – Sale of Timber from Experimental Forest

Jeff Shinn introduced this item to the Board noting that it was an information item. Laura Hubbard of UI responded to questions from the Board. She noted that the basis for the timing of this sale has to do with the research and academic programs of the institution and management of the forest.

6. Lewis-Clark State College – 2003 Foundation Audit Report

Jeff Shinn introduced this item to the Board noting that he reviewed the audit and found no issues for concern. Board member Lewis asked about the process for reviewing such audits. After discussion, President Hall suggested Mr. Shinn work with Board member Agidius to draft a proposed policy on how audits are received, reviewed and presented to the Board. Board member Agidius noted that was already underway.

8. Tuition Waiver Reports by BSU, ISU, UI and LCSC

Jeff Shinn introduced this item to the Board and said the computer science and information technology portion of the waivers are based on past economic conditions. He asked the institutions to update the Board on the current need for such waivers.

BSU said the waivers they grant are primarily in engineering. ISU said that they have a number of waivers that they grant even though the market place has changed somewhat.

UI was asked how it utilizes partial waivers and they noted that they had continued to make aggressive use of the waivers that the Board has approved. Board member Lewis asked UI to provide a thorough presentation on how these partial waivers are granted at the June meeting.

LCSC reported that they use the waivers to support their enrollment plan. Dr. Thomas noted that partial waivers are granted as part of their recruitment plan. President Hall observed that LCSC uses the waivers more for freshmen. Board member Agidius asked waivers are ever granted on the vocational side. LCSC said yes, they are used on both sides.

**M/S (Stone/Agidius): To accept the Nonresident Tuition Waiver – Fall 2003 reports for Boise State University, Idaho State University, University of Idaho and Lewis-Clark State College as presented on pages 33-37, subject to the information that will be presented by U of I at the June meeting. *Motion carried unanimously.***

**10. FY 05 College and University Appropriation – Legislative Intent**

Jeff Shinn introduced this item to the Board and discussed the ramifications of reallocating existing funds. He recommended discussion by Executive Director, President of the Board, Chair of the President's Council and himself.

**M/S (Lewis/Stone): To refer this to the executive committee and other parties. *Motion carried unanimously.***

**EXECUTIVE SESSION**

**M/S (Stone/Agidius): To enter into executive session pursuant to Idaho Code Section 67-2345 (1), (a), (b), (c), (d), and (f). *A roll call vote was taken. Motion carried 5-0 (Terrell absent).***

In executive session, the Board considered hiring a public officer, employee, staff member or individual agent; considered the evaluation, dismissal or disciplining of, or complaints or charges brought against a public officer, employee, staff member or individual agent, or public school student; considered records that are exempt from public inspection; and considered and advised its legal representatives in pending litigation or where there is a general public awareness of probable litigation.

The Board reconvened at 8:00 a.m. on April 23, 2004.

**OPEN FORUM**

Sherri Hatley of Clarkfork, Idaho spoke to the Board concerning the proposed school district split of the Lake Pend Oreille School District giving examples of why this would have a negative impact on the children and the communities of Hope and Clarkfork. She informed the Board that approximately 70% of constituents in those communities who were surveyed last March opposed the split.

Mike Pitanno of Coeur d'Alene spoke to the Board about the restoration of the U of I College of Art and Architecture. He respectfully requested that the Board begin immediately to restore the College of Art and Architecture and assure that no other major decisions be made until a process has been put into place to bring about restoration.

Eric Roberts of Moscow and a student of architecture at U of I presented a petition for the record, which was signed by 350 students who support the effort to restore the U of I College of Art and Architecture.

Chelsie Hansen of Moscow and graduate student in Art at the U of I spoke to the Board about the need to restore the College of Art and Architecture to the U of I.

Terry Stevens of Clarkfork spoke to the Board in support of the coalition that is promoting the district split of the Lake Pend Oreille district noting that their goal is to provide quality education to the students in their district and their community. He asked that the Board approve the proposal so that it could go to the constituents for a vote in November.

### **DEPARTMENT OF EDUCATION – Dr. Marilyn Howard**

#### **1. Letters of Authorization – Bob West**

Dr. Howard introduced this item to the Board.

**M/S (Howard/Lewis): To approve the requests for Letters of Authorization as submitted by the Professional Standards Commission.** *Motion carried 4-0 (Stone and Agidius absent).*

#### **2. Administrative Staff Allowance Waiver Requests to Meet Accreditation Standards – Tim Hill**

**M/S (Howard/Lewis): To approve the requests by Moscow School District #281 and Shoshone Joint School District #312 for additional administrative staff to meet accreditation standards.** *Motion carried 5-0 (Agidius absent).*

#### **3. Applications for Remote and Necessary Schools – Tim Hill**

Dr. Howard noted that Arbon Elementary District is returning to remote and necessary status. Tim Hill of the State Department of Education staff explained the need for Pleasant Valley School District to have this status approved so that they have approval 90 days ahead of their annual meeting. This will allow them to take action at the meeting if it is necessary. In approving this item it allows for the provision of giving them additional funds in the upcoming year.

**M/S (Howard/Stone): To approve the requests by Arbon Elementary School District #383 and Pleasant Valley School District #364 to be recognized as remote and necessary.** *Motion carried unanimously.*



**4. Proposal to Divide Lake Pend Oreille School District No. 84 – Dave Teater**

Dr. Howard said that the State Department of Education is bringing this item forward for consideration by the Board without recommendation one way or the other.

Superintendent Mark Berryhill of the Lake Pend Oreille District and Vicki Pfeifer of the local board spoke about the history of the proposal to split and the reasons for considering a split again at this time. It was noted that a review of the proposal was conducted by MGT of America, an outside consulting firm.

Dave Teater a consultant from MGT of America reviewed the plan for the Board. He noted that he was a resident of Hayden, Idaho as well.

Ms. Pfeifer encouraged the Board to approve the proposal so that it could go to the voters of the district where they could then decide the issue by vote.

Board member Terrell noted that the survey mentioned by Ms. Hatley during the Open Forum had demonstrated a majority of people was not in favor of a school district split. Vicki Pfeifer said the proposal came from a community coalition from Clarkfork and Hope and is something that has been discussed for a number of years. The local board felt that it should be allowed to go through the process so that the voters can decide if this is what is best of the community.

When asked, Mr. Hill of the State Department staff said there are a number of elementary school districts that are small in student numbers. As far as the Hope/Clarkfork district qualifying for the status of “remote but necessary” funding, it is unlikely that would happen because none of the districts is remote.

Dr. Howard questioned whether or not there would be improved opportunity and benefits if a split takes place. President Hall expressed doubt that the advantages to students in the small schools would change as a result of a split so deconsolidation wouldn't bring additional benefits.

President Hall indicated that he was in receipt of a letter from Senator Keogh asking for the Board to support this proposal. As well, the Board is in receipt of a petition signed by individuals from the Hope/Clarkfork Coalition also requesting the Board's support.

**M/S (Howard/Stone): To approve the proposal for division of Lake Pend Oreille School District No. 84.** *(This motion did not go forward because a substitute motion was made and passed.)*

Dr. Howard indicated she will vote against the proposal the State has been encouraging districts to work together and encouraged the people in this case to think how to work in the larger picture.

Board member Terrell said he will vote against the proposal. Board member Stone will vote in favor of the proposal to give the people in the district local control and the opportunity to vote on the proposal themselves. Board member Agidius said one of his concerns is the local levies and the ability of the smaller districts to pass levies.

President Hall indicated that he hadn't heard anything that depicted how deconsolidation in this case has a compelling need or demonstrates benefits to the children of Idaho and the education system of Idaho. Therefore he will vote against the proposal.

Board member Lewis indicated he struggled with the issue of local control where there isn't a compelling argument that it is ultimately better for the students. He said that it appeared the advantage of the small school is still there even without deconsolidation.

**Substitute Motion (Terrell/Agidius): To disapprove the proposal for division of the LPO School District No. 84.** *Motion carried 5-1 (Stone dissenting).*

#### 5. Basic Bus Specifications

Dr. Howard noted that this was an information item. She introduced Rod McKnight from the State Department of Education to briefly summarize this item. He noted that the State Department of Education is seeking the Board's support in moving forward with defining and specification writing of Idaho's "basic bus" prerequisite to seeking Request for Proposal.

#### 6. Approval of Negotiated Rulemaking

Dr. Howard introduced this item to the Board. Rod McKnight explained the need for negotiated rulemaking. The proposed rule will be brought back to the Board in June.

**M/S (Howard/Agidius): To approve a Notice of Negotiated Rulemaking for publication in the June Administrative Bulletin.** *Motion carried unanimously.*

#### 7. Idaho Alternative Assessment

Dr. Howard introduced this item and introduced to update the Board on the Idaho Alternate Assessment (IAA) for special education students.

Ms. Compton and Dr. Stephen Elliott spoke to the Board about the development of the IAA and the research that was conducted in that regard. It was noted that the IAA meets the federal IDEA and NCLB requirements for students with disabilities participating in statewide accountability systems. The students taking this assessment have hugely varying skills. This assessment gives the teachers a structure for this population and their response to it has been positive.

President Hall congratulated Dr. Elliott and Ms. Compton for their work and their presentation.

#### 8. Health School Nutrition

SeAnne Safaii and Mary Breckenridge of State Department of Education along with Kristin Ritzenthaler of the Idaho Dairy Counsel were introduced. They discussed child nutrition issues and how to promote issues for healthy children initiatives in the schools. They have developed some standards that will help bring these things into place as well as guidelines and model programs that administrators can follow. Currently, the team is working on a list of recommendations that lists health snacks, meals, activities and environments. She asked that the Board endorse the recommendations before they are sent out to all the schools in Idaho.

Dr. Howard said it is important to take into consideration the whole child. She noted the recommendations are an urging to school districts to embrace health school activities and encouraged the Board to support them.

**M/S (Howard/Terrell): To support the Recommendations for Healthy School Nutrition Environment for children. *Motion carried unanimously.***

#### 9. Superintendent's Report – Dr. Marilyn Howard

Dr. Howard reported on the following: the Education Commission of the States steering committee meeting last week hosted by Senator John Andreason; workshops on data-driven decision making conducted throughout the state for district personnel; reading academies, which this year targeted third grade teachers; the National Academic Decathlon held in Boise.

Dr. Howard reported on the technical advisory committee for the ISAP and recommended that there be a sharing between the old advisory committee with the new advisory committee to assure that there is a smooth and credible transition.

**BUSINESS AFFAIRS & HUMAN RESOURCES Section II – Business Affairs  
(continued)****2. Idaho State University – Land Purchase University Place/Idaho Falls**

Dr. Bowen introduced the topic of this land purchase noting that the UI Foundation is seeking to divest itself of the property and ISU is interested in acquiring it. Ken Prolo of ISU highlighted the scope of the property referring to a map that was provided to the Board in their agenda packets.

There was discussion about the leases currently in place with tenants of the Tinney Building, which is on the property. There is not a master lease nor do the current leases have change of control provisions which means the new owner is not a liberty to cancel the current leases, some of which are for 99 years. The UI lease in the Tinney Building is for 10 years and goes until 2010. Brian Pritcher said the sale of the property will not change the UI commitment to the students, the community and the programs in Idaho Falls.

President Hall asked for the information that was referenced in discussion (the appraisal, leases, MOU's, etc.) to be provided to SBOE staff for analysis so the Board can be more fully informed on this item.

**M/S (Lewis/ Terrell): To authorize Idaho State University to continue with negotiations to purchase land and improvements at University Place-Idaho Falls, including acquiring a current appraisal, and to take other steps as needed toward bringing about final terms of an agreement. *Motion carried unanimously.***

**3. University of Idaho – Water Center Sublease to WGI**

Jeff Shinn introduced this item reviewing background information provided in the agenda packet. President Hall directed the focus of discussion to the specific sub-lease of approximately 4,250 square feet of retail space on the first floor of the Idaho Water Center to Washington Group International (WGI).

Laura Hubbard of the UI reviewed key milestone dates indicating that substantial completion of the building is targeted for August 10, 2004 with the move period being September – December 2004.

It was noted that by leasing the space to WGI under the terms presented will allow UI to utilize facilities it otherwise would not have access to. Brian Pritcher of the UI said the WGI lease is for classroom space and not office space.

The Board was directed to the impact statement in the agenda packet noting that the tenant improvements were listed there. Ms. Hubbard said that those costs were all paid up front.

President Hall asked about parking access how this lease would impact the already limited parking. Ms. Hubbard said that the parking in that area is managed by Capitol Building Parking and wasn't able to say how the parking will be affected.

Board member Lewis apologized for the lack of time that was available for the presentation today and President Hall said the full presentation that was scheduled for today's meeting will be moved to the June Board agenda.

Mr. Terrell asked if the contract will come back to the Board before it is signed to assure that there is opportunity to everything to make sure that it complies with the motion. President Hall said that legal counsel will review the contract and make that it is in order.

**M/S (Agidius/ Terrell): To authorize the University of Idaho to proceed with subleasing approximately 4,250 square feet of retail space on the first floor of the Idaho Water Center to Washington Group International (WGI). It is understood that WGI will pay all tenant improvement and furnishing costs in advance. WGI will pay for 50% of the lease payments and operating costs for the designated space; the UI will pay the remaining 50% of costs. As part of this agreement, WGI will pay a total of \$1,500,500; the UI will pay a total of \$485,000 over a 10-year term. Motion carried 5-1 (Hall dissenting).**

9. Develop a Request for Proposal for Audit Services Contract

The Audit Committee of the State Board of Education will have overall responsibility for the process, including development of the request for proposal, evaluating proposals received and selecting a contractor. The following ad hoc committee is expected to be directly responsible for the RFP development: State Division of Purchasing, Office of the State Board of Education, Board member Paul Agidius, and Office of the State Controller, State Legislative Auditor and Office of the Attorney General.

Draft and final RFP documents will be shared with the audited institutions for review and comment. Proposals will be evaluated by the audit committee, individuals named above, and the audited institutions. Final selection of the external auditor will be made by the Audit Committee of the State Board of Education.

**M/S (Agidius/Stone): To initiate the "request for proposal" process for external audit services beginning with the Fiscal Year 2005 audit time period. Motion carried unanimously.**

**11. Permanent Building Fund – FY 04 Alteration and Repair Projects**

This item was deferred.

**12. Idaho Promise Scholarship – Category B Award**

Jeff Shinn introduced this item.

**M/S (Lewis/ Terrell): To approve the amount of the Idaho Promise Scholarship, Category B, to be \$250 per semester per student (\$500 annually) for those current recipients who maintain eligibility and for qualified first year entering students under the age of 22 in the academic year 2004-2005. Motion carried 5-0 (Stone abstained).**

**13. Agency / Institution Employee Compensation Plans**

Jeff Shinn discussed this item. He noted that all the compensation plans have been received by the Board office for review so that they can be forwarded to the Division of Financial Management and the Division of Human Resources.

President Hall asked if the agencies and institutions will all be able to meet the salary increase. It was noted that LCSC and UI will not be able to meet the 2% salary increase.

Board member Lewis asked what the trend was that allowed for the Division of Professional-Technical Education increase compared to that of the universities. Mr. Shinn said that some agencies will have more money in their operating funds due to eliminated positions, lay-offs, unfilled positions, etc. In this case, PTE had two FTE transferred to the Board Office, but the funding for those FTE was not eliminated by the Legislature. Mr. Shinn explained that in such cases, agencies can use these funds for one-time bonuses among other things.

Mr. Dennis of the Division of Professional-Technical Education explained that most of the funding was transferred to operating costs and trustee benefits. Some of the money was used to address specific salary issues in the agency. Board member Lewis expressed concern about creating disparity between agencies under their oversight. Mr. Dennis said that when the two positions were transferred to the Office of the State Board, the workload for remaining positions in the Division of Professional-Technical Education agency increased. And, the ability to give merit increases to compensate employees for the additional workloads they were carrying seemed appropriate. President Hall reiterated that this is not unusual nor is it out-of-the-ordinary for agencies to reward the hard work of their employees when they have the ability to do so.

**M/S (Stone/ Agidius): To approve the FY05 compensation plans for the agencies and institutions under the governance of the State Board of Education. *Motion carried 5-1 (Lewis dissenting).***

14. Idaho School for the Deaf and the Blind – Contingency Reserve

**M/S (Howard/Agidius): To approve the expenditure of funds from the Idaho School for the Deaf and the Blind contingency reserve fund in the following amounts: FY2004 -- \$35,000 for curriculum development materials; FY2005 -- \$80,000 for a pupil transportation bus. *Motion carried 5-1 (Terrell dissenting).***

15. Boise State University – Health, Wellness & Counseling Center Project

Jeff Shinn introduced this item. He noted that BSU intends to have further discussion with the staff of the Board on this item. President Hall asked if this item can be deferred until the June meeting. BSU said it would be the desire to proceed with the RFP process to seek architectural and design services and receive proposals. The original intent of this item is to sign an agreement with the architect. Board member Terrell indicated that at the June meeting BSU would need to justify the project to the Board before the RFP is awarded.

**M/S (Terrell/ Stone): To approve the request by Boise State University to proceed with the RFP process planning and design of the Health, Wellness and Counseling Services Center Project at a cost not to exceed \$932,025. *(Motion was amended.)***

**Amended Motion (Terrell/Stone): To approve the request by Boise State University to proceed with the RFP process planning and design of the Health, Wellness and Counseling Services Center Project. *Motion carried 5-0 (Howard absent).***

**Substitute motion (Lewis/Stone): To approve the request by Boise State University to proceed with the planning and design of the Health, Wellness and Counseling Services Center Project, at a cost not to exceed \$932,025. *(Motion was withdrawn by Lewis/Stone).***

As a point of clarification on this item, Boise State University will return to the June meeting with a proposal along with the proposed contract for the Board to consider.

**BUSINESS AFFAIRS & HUMAN RESOURCES -- (continued)****Section II – Human Resources****1. Boise State University – Head Coach or Athletic Director Employment Contract (continued from Thursday's meeting)**

At Thursday's meeting (April 22), Jeff Shinn introduced this item to the Board. During the discussion it was agreed, by unanimous consent, to hold further discussion until Friday's meeting to allow BSU staff time to prepare a comparison document for the Board's review.

The comparison document was presented by Kevin Satterlee and distributed to the Board members for their review. He discussed with the Board members the substantive changes in the contract from the model contract. A number of points came out in discussion. President Hall directed the Board's legal counsel to make a note of the comments being made about the contract and to assure that the requested changes were made.

**M/S (Hall /Terrell): To approve the proposed employment contract subject to modifications being made in this contract consistent with discussion today (April 23, 2004) with the Board including graduation on page 4 and specific language with regard to "not relied on legal counsel" and clarifying the language that appears to be in conflict regarding camps. Motion passed 5-0 (Howard absent).**

President Hall indicated the Board would enter into the contract upon the Board's legal counsel being satisfied that BSU has met the modifications indicated.

**OTHER AND NEW BUSINESS**

At this time President Hall thanked the staff of NIC on behalf of the Board for the services and hospitality provided. He went on to say that his experience as a member of the SBOE has been a positive one. He summarized some of the Board's accomplishments during the time he has served and thanked the Board members for their dedication and commitment to raising the bar in education for Idaho's students and citizens. He noted that change is never easy, but that the changes instituted by this Board have resulted in a higher level of confidence of parents throughout the state in Idaho's education system.

President Hall said he had done some research into the disbanding the College of Art and Architecture at UI noting that the institution did make a formal request for that in accordance with Board policy several years ago. However, given the high level of concern expressed on this issue President Hall recommended a full review of that



decision on the June meeting so that UI can make a complete presentation to the Board as well as provide the opportunity to the Foundation and students to also express their views. He asked that anyone who had materials that needed to go into that presentation contact Karen Gustafson of the Board staff.

**By unanimous consent it was agreed to put this item on the June Board agenda, which will be held in Moscow at the UI.**

### **ELECTION OF OFFICERS**

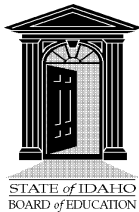
It was moved by Mr. Agidius and seconded by Mr. Terrell and carried (4-0, Howard absent) to elect Mr. Rod Lewis as President:

It was moved by Mr. Terrell and seconded by Mr. Hall and carried (4-0, Howard absent) to elect Mr. Laird Stone as Vice President.

It was moved by Mr. Hall and seconded by Mr. Agidius and carried (4-0, Howard absent) to elect Mr. Milford Terrell as Secretary.

At this time President Lewis made concluding remarks. He thanked Mr. Hall for his tireless service over the past two years in the role of President. In remarking on some of the highlights --including the K-12 Standards Based Education System, ISAP testing statewide, statewide planning policy for higher education, the hiring of two university presidents, and the investigation into the University Place situation – President Lewis said that the State Board of Education is forward to govern education in Idaho.

Meeting adjourned at 4:21 p.m.



STATE BOARD OF EDUCATION  
TRUSTEES OF BOISE STATE UNIVERSITY  
TRUSTEES OF IDAHO STATE UNIVERSITY  
TRUSTEES OF LEWIS-CLARK STATE COLLEGE  
BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO  
STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION  
TRUSTEES FOR THE IDAHO SCHOOL FOR THE DEAF AND THE BLIND

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**DRAFT MINUTES  
STATE BOARD OF EDUCATION MEETING  
May 18-19, 2004  
Boise, Idaho**

A meeting of the Idaho State Board of Education was held on May 18-19, 2004 at the DoubleTree Club Hotel in Boise, Idaho. The meeting was called to order by President Rod Lewis. The following members were present:

Rod Lewis, President  
Milford Terrell, Secretary  
Paul Agidius  
Karen McGee

Laird Stone, Vice President  
Marilyn Howard, State Superintendent  
Blake Hall  
Susan Thilo

The Board entered into Executive Session immediately upon convening on May 18, 2004.

**EXECUTIVE SESSION**

**M/S (Hall/Terrell): To enter into executive session pursuant to Idaho Code Section 67-2345 (1), (a), (b), (c), (d), and (f). A roll call vote was taken. Motion carried unanimously.**

**EXECUTIVE SESSION**

On Wednesday, May 19 the Board re-convened and immediately returned to Executive Session.

**M/S (Hall/Agidius): To enter into executive session pursuant to Idaho Code Section 67-2345 (1), (a), (b), (c), (d), and (f). A roll call vote was taken. Motion carried unanimously.**

In executive session, the Board considered hiring a public officer, employee, staff member or individual agent; considered the evaluation, dismissal or disciplining of, or complaints or charges brought against a public officer, employee, staff member or individual agent, or public school student; considered records that are exempt from public inspection; and considered and advised its legal representatives in pending litigation or where there is a general public awareness of probable litigation.

An open meeting of the Board convened at 1:15 p.m. on May 19, 2004.

**BOARDWORK****1. Chief Executive Officer Appointments/Reappointments and Salaries**

**M/S (Hall/McGee): To approve the reappointment of Dr. Richard Bowen as President of Idaho State University effective July 1, 2004 through June 30, 2005 at a state salary of \$165,240.00. *Motion carried unanimously.***

**M/S (Agidius/Terrell): To approve the reappointment of Dr. Dene Thomas as President of Lewis-Clark State College effective July 1, 2004 through June 30, 2005 at a state salary of \$125,000.00 and to grant tenure as a member of the faculty at Lewis-Clark State College. *Motion carried unanimously.***

**M/S (Hall/McGee): To approve the reappointment of William Robertson as Interim President of Eastern Idaho Technical College effective July 1, 2004 at a state salary of \$98,700.00. *Motion carried unanimously.***

**M/S (Terrell/Agidius): To approve the reappointment of Dr. Robert Kustra as President of Boise State University effective July 1, 2004 through June 30, 2005 at a state salary of \$165,240.00. *Motion carried unanimously.***

**M/S (McGee/Stone): To approve the reappointment of Gary Stivers as Executive Director for the State Board of Education effective July 1, 2004 through June 30, 2005 at a state salary of \$107,100.00. *Motion carried unanimously.***

**2. Appointment of Vice President for Finance and Administration – University of Idaho**

**M/S (McGee/Agidius): To approve the appointment of Dr. Jay Kenton as Vice President for Finance and Administration of the University of Idaho effective July 1, 2004 through June 30, 2005 at a state salary of \$155,000.00. *Motion carried unanimously.***

3. Designation of Idaho Virtual Academy as a Local Education Agency

Randy Thompson of the Board staff presented this item to the Board for their consideration. He noted that in 2004, the Idaho legislature made a provision for the State Board of Education to identify those charter schools that shall be designated as LEAs. He went on to discuss the matter of designating the Idaho Virtual Academy as an LEA.

Board member Hall commented on the matter of charter schools in general and the Idaho Virtual Academy in particular. He noted that the legislature (specifically, the Joint Finance and Appropriations Committee) appropriated a certain amount of money that was to go to the IDVA in FY2004.

**M/S (Hall/McGee): To approve that the Idaho Virtual Academy be designated as a Local Education Agency in the Idaho Public Education system effective July 1, 2003 and to direct the State Department of Education to distribute all appropriate federal funds to the IDVA by June 15, 2004, associated with this designation as allowed applicable state and federal law. Motion carried 7-1 (Howard dissenting).**

There was discussion about the effective date of July 1, 2003. Dr. Howard said she supported designating the Idaho Virtual Academy as an LEA. However, based on discussion with staff of the Legislative Service Office, she could not support the portion of the motion having to do with the retroactive designation. Board member Stone said he had the same concern and noted that the final part of the motion indicated that the distribution of funds has to be within the confines of state and federal law. Board member Hall went on to explain his understanding of the legislative intent. Board member McGee concurred with Board member Hall.

Board member Hall discussed the concerns that local districts have about their potential liability for public charter schools that will fall under the purview of the Charter School Commission or the Board, noting there was a need by the Board to be sensitive those concerns.

**M/S (Hall/Terrell): Move that the authority to designate public charter schools as LEAs be delegated to the Executive Director of the State Board of Education with instructions that, at this point, those be limited to public charter schools that are chartered or come under the purview of either the Commission or the SBOE.**

*Motion carried unanimously.*

During discussion, Board member Hall clarified that his motion was restricted to those public charter schools that come under the Commission or the State Board.

**EXECUTIVE SESSION**

**M/S (McGee/Agidius): To enter into executive session pursuant to Idaho Code Section 67-2345 (1), (a), (b), (c), (d), and (f).** *A roll call vote was taken. Motion carried unanimously.*

In executive session, the Board considered hiring a public officer, employee, staff member or individual agent; considered the evaluation, dismissal or disciplining of, or complaints or charges brought against a public officer, employee, staff member or individual agent, or public school student; considered records that are exempt from public inspection; and considered and advised its legal representatives in pending litigation or where there is a general public awareness of probable litigation.

The Board adjourned at 3:00 p.m.